

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Gerald A. Morelock,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1237
Parcel No. 010/01931-025-000

On April 28, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Gerald A. Morelock was self-represented and submitted evidence in support of his petition. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr. as its legal representative and submitted evidence in support of its decision. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Gerald A. Morelock, owner of property located at 3715 SE 24th Court, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for January 1, 2009, assessment and valued at \$175,600; representing \$23,900 in land value and \$151,700 in the improvement value. Morelock protested to the Board of Review and did not state a reason or ground for the protest. Morelock just requested an oral hearing with the Board of Review. In response to the protest, the Board of Review notified Morelock that the January 1, 2009, assessment would be changed, stating "the assessed value of this property was changed, because the market data did not support the assessment." The Board of Review reassessed the property at \$165,000; representing \$23,900 in land value and \$141,100 in the improvement value.

Morelock then filed an appeal with this Board on the ground of over-assessment. Morelock asserts the assessed value is too high and requested the assessment be reduced. This Board will consider whether the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b). Morelock seeks \$25,000 in relief and values the property at \$140,000.

The subject property is a one-story, frame dwelling, built in 1989 with 1495 square feet of main living area. It is in above-normal condition and has a 3+5 quality grade. The property has a 400 square-foot attached garage, and the site consists of 0.266 acres.

At hearing, Morelock used a list of properties, first selected by an appraiser from the county assessor's office to prepare an analysis for the Board of Review, to compare and contrast his property and arrive at his determination of value. In Morelock's opinion, the properties are not that comparable to the subject property. Morelock testified that a property located at 3718 SE 24th Court, close to the subject property, sold in March 2009 for \$134,000. Morelock used this sale for the basis of his determination of \$140,000 as the correct assessment for his property. We note that while the sale was after the January 1, 2009, assessment date, it is very close to that date.

The data submitted by Morelock was not adjusted to the subject property. Although the square footage and ages of the properties may be similar, no adjustments were made for size and physical conditions. For this reason, it is difficult to determine whether the sales prices of those properties reflect the market value or a range for the market value of Morelock's property.

The Board of Review data that was already part of the certified record, may or may not have been presented at the Board of Review hearing according to counsel. We find this information virtually useless because of extensive adjustments. Additionally, it reflects the assessor's office opinion before the Board of Review changed the assessment. The Board of Review did not have any witnesses to support the assessment.

Morelock offered limited relevant evidence to support his opinion that the market value of his property is less than the current assessment. We find there is insufficient evidence to support the claim that the subject property is over-assessed.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

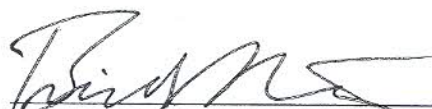
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

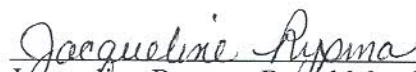
(Iowa 1995). Morelock did not provide this Board with persuasive evidence that the current assessed valuation is more than authorized by law; he also failed to provide substantial evidence of its fair market value.

The evidence does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property as determined by the Polk County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the Morelock property, located at 3715 SE 24th Court, Des Moines, Iowa, as of January 1, 2009, as set by the Polk County Board of Review, is affirmed.

Dated this 24 day of May, 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-24</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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